UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,180	11/17/2003	Vanu Bose	12869-008001 / AAVANP06	3813

26161   7590   11/01/2007

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
DAVENPORT, MON CHERI S

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
11/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   **Claims 1-23** rejected under 35 U.S.C. 102(b) as being anticipated by Burke et al.

(US Patent Number 5,406,643).

Regarding **claims 1, 8, and 15** Burke et al. disclose an apparatus for allocating

channels, comprising:

a memory that stores executable instruction signals(see fig. 2, section 14, ROM);

and

a processor that executes the instruction signals to(see fig. 2, section 16, CPU):

determine a communication standard used by a message (see col. 2, lines 25-29, a

subscriber unit to select from amongst a plurality of communications media, that

particular media for establishing a communications path to a specified end point);

determine available channels(see col. 2, lines 44-48, The packet server maintains

a session list identifying currently available connections (virtual links) to a specific end

point,); and

allocate a channel based on the available channels and the communication

standard used by the message(see col. 2, lines 49-53, The device manager maintains a

list specifying the possible communications paths to specific end points and actually

controls the communications resources responsible for establishing a communications

path).

Regarding **Claims 2, 9 and 16** Burke et al. discloses everything as applied above

(*see claims 1, 8 and 15*). In addition the method, apparatus, and article includes:

send a notification to use the channel(see col. 2, lines 38-39, see fig. 7, section

88, establishing a connection, see also col. 7, lines 35-39, flow proceeds to block 90

where packet server 34 establishes the communication path connection(reads on

notification to use channel) in preparation for transmission of information).

Regarding **Claims 3, 10 and 17** Burke et al. discloses everything as applied above

(*see claims 2, 9 and 16*). In addition the method, apparatus, and article includes:

wherein to send an instruction comprises sending an instruction to a software-

defined signal processing system to allocate the appropriate channel for the message(see

col. 7, lines 35-39, establishes the communication path connection in preparation for

transmission of information between software application)

Regarding **Claims 4, 11 and 18** Burke et al. discloses everything as applied above

(*see claims 1, 8 and 15*). In addition the method, apparatus, and article includes:

wherein the spectrum of channels includes a channel dedicated to AMPS(see col.

3, lines 50-54, Communications paths 4, 6, and 8 may consist of wireless or wireline

communications media such as, but not limited to, telephone lines, twisted pair wire,

fiber-optic links, infrared channels, and radio frequency channels, AMPS is included as

wireless).

Regarding **Claims 5, 12 and 19** Burke et al. discloses everything as applied above

(*see claims 1, 8 and 15*). In addition the method, apparatus, and article includes:

wherein the message is a call (see col. 2, lines 28-29, establishing a

communication path reads on message is a call)).

Regarding **Claims 6, 13 and 20** Burke et al. discloses everything as applied above

(*see claims 1, 8 and 15*). In addition the method, apparatus, and article includes:

wherein the message is a received message (see col. 2, lines 26-29, establishing a

communication path reads on a message is received).

Regarding **Claims 7, 14 and 21** Burke et al. discloses everything as applied above

(*see claims 1, 8 and 15*). In addition the method, apparatus, and article includes:

wherein the message is being processed for transmission(see col. 2, lines 49-53,

The device manager maintains a list specifying the possible communications paths to

specific end points and actually controls the communications resources responsible for

establishing a communications path, this reads on the message is being processed to determine the communication path for transmission).

3.   **Claims 22-23** rejected under 35 U.S.C. 102(e) as being anticipated by Owens et al. (US Patent Number 6,338,140).

Regarding **claim 22** Owens et al. discloses a software-defined signal processing system, comprising:

a controller (see col. 18, lines 12-14, the fault tolerance is controlled(controller), to determine when to switch from primary to back-up server,) ;

a set of primary servers, each server includes software required to execute a communications standard (see col. 18, lines 12-17, communication server); and

a back-up server that supports the set of primary servers in case of failure (see col. 18, lines 12-17, back-up server for fault tolerance);

wherein the back-up server is configured to perform the functions of a failed server from the set of primary servers when the failed server fails (see col. 18, lines 12-17, the back-up server immediately comes on-line to prevent service disruption).

Regarding **Claim 23** Owens et al. discloses everything as applied above (*see claim 22*). In addition the system includes:

wherein each primary server includes objects, network connections and memory buffers that mirror the primary server (see col. 18, lines 12-17, the backup server mirrors the primary communication server).

Citation of Pertinent Prior Art

4.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

      Cerwall et al. (US Patent Number 7,130,635) see abstract.

      Jung et al. (US Patent Number 6,621,807) see abstract.
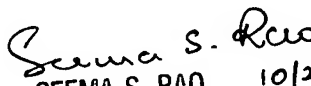
Conclusion

      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mon Cheri S. Davenport whose telephone number is 571-

270-1803. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00

p.m. EST.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

      Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MD/md

October 26, 2007

SEEMA S. RAO   10/29/07
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600